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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,421	05/09/2001	Ronald Packard	37225-170522	2133
26694	7590	04/28/2006	EXAMINER	
VENABLE LLP			LUU, LE HIEN	
P.O. BOX 34385			ART UNIT	
WASHINGTON, DC 20045-9998			PAPER NUMBER	

2141

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<b>Application No.</b> 09/851,421	<b>Applicant(s)</b> PACKARD ET AL.	
	<b>Examiner</b> Le H. Luu	<b>Art Unit</b> 2141	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21, 79 and 80 is/are pending in the application.
- 4a) Of the above claim(s) 22-78 and 81-86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21, 79 and 80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/07/02</u> | 6) <input type="checkbox"/> Other: _____  |

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1. Claims 1-21 and 79-80 are presented for examination.
2. Applicant's election without traverse of claims 1-21 and 79-80 in the reply filed on 11/08/04 is acknowledged.
3. Applicant is requested to formally cancel non-elected claims 22-78 and 81-86.
4. New corrected drawings are required in this application because some drawings are illegible and poor quality for publication. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

or

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 5-20, and 79-80 are rejected under 35 U.S.C. § 102 (a) and 102(e) as being anticipated by Pellegrino et al. (Pellegrino) patent no. 6,149,441.

7. As to claims 1 and 79-80 Pellegrino teaches the invention as claimed, including a virtual school, comprising:

a computer network, including server means and a plurality of clients each of which is adapted to be connected to said server means over said network (Fig. 1);

means for operating said server means and said plurality of clients, said operating means supporting a run-time environment for a virtual school application on said network (Figs. 1-2; col. 2 lines 31-65);

graphical user interface means adapted to be displayed on said plurality of clients, said graphical user interface means including a plurality of personalized spaces

(Fig. 4; col. 9 line 8 – col. 10 line 16);

a database storing a plurality of files with a plurality of different file formats (col. 2 lines 46-54);

a plurality of collaborative modules, each of which is adapted to be run over said network, said collaborative modules including:

a content manager (col. 8 lines 26-59);

a curriculum planer (col. 8 lines 26-59);

an instructional sequencer (col. 8 lines 26-59; col. 9 line 62 - col. 10 line 16); and

a progress tracker (col. 20 lines 49-67).

8. As to claims 5-12, Pellegrino teaches said plurality of files stored in said database comprises a plurality of classes and a plurality of objects; said plurality of classes comprise classes selected from the group consisting of content classes, user classes, and role classes; said plurality of objects comprise objects selected from the group consisting of content objects, user objects, and role objects; each said content object constitutes a logical collections of content fields within said database; each said user object defines a user of the virtual school; said user is selected from the group consisting of a plurality of pupils, a plurality of caring adults acting in concert with selected ones of said plurality of pupils, a plurality of system teachers, a plurality of content developers, and a plurality of system administrators administering and supporting the virtual school; each said role object constitutes a logical assembly of possible tasks within the virtual school, based on job functions; and each said content

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object and each said user object is assigned to a particular role object (Figs. 1 and 4-38).

9. As to claims 13-17, Pellegrino teaches said plurality of files stored in said database further comprises a plurality of files selected from the group consisting of XML files, graphical files, audio files, video files, and mixed media files; said graphical files include JPEG files, GIF files, and BMP files; said audio files include WAV files and MP3 files; said video files include QIC files, Real files, AVI files, and MPEG files; said media files include SWF files (col. 2 lines 46-54; col. 11 lines 45-52).

10. As to claims 18-20, Pellegrino teaches said plurality of files stored in said database comprises a plurality of series of components; each said series of components includes an element defining a unique identification; said series of components further define a plurality of objects (col. 8 lines 26-59; col. 11 lines 11-58).

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2-4 and 21 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Pellegrino et al. (Pellegrino) patent no. 6,149,441, in view of Suorsa et al. (Suorsa) pub. no. 2002/0194584.

13. As to claim 2, Pellegrino teaches the invention substantially as claimed, including said server means comprises: web server, file server; application server, and database server are in the same server computer (Abstract; col. 2 lines 45-54; col. 7 line 50 – col. 9 line 19).

However, Pellegrino does not explicitly teach a plurality of web servers; a plurality of application servers, each of which is connected to said plurality of web servers; a file server connected between said database and each of said plurality of application servers; and a database server connected between said database and each of said plurality of application servers.

Suorsa teaches a web site having plurality of web servers, application servers, database servers and file servers interconnected together (pages 3-4, paragraphs [0033 - 0035]; page 6, paragraph [0051]).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of Pellegrino and Suorsa to provide a plurality of web servers; a plurality of application servers, each of which is connected to said plurality of web servers; a file server connected between said database and each of said plurality of application servers; and a database server connected between said database and each of said plurality of application servers because it would improve network performance and ensures reliability and scalability.

14. As to claims 3-4, Pellegrino and Suorsa teach means for clustering said file server and said database server, and a server dedicated for use by said content

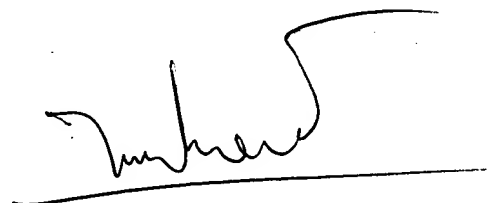
manager (Pellegrino, col. 8 lines 26-59; Suorsa, Fig 2-4, col. pages 3-4, paragraphs [0033 – 0034]).

15. As to claim 21, Pellegrino and Suorsa teach a state server connected to each of said plurality of application servers, wherein said state server is adapted to maintain a state of an instance of each of said plurality of objects (Pellegrino, col. 8 lines 26-59; col. 11 lines 11-58; Suorsa, page 4, paragraph [0036]).

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu whose telephone number is 571-272-3884. The examiner can normally be reached on 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LE HIEN LUU  
PRIMARY EXAMINER